IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8917 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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BHIKHALAL BALASHANKER JOSHI

Versus

GUJARAT STATE CO OP AGRI. AND RURAL DEVELOPMENT BANK LTD

Appearance:

1. Special Civil Application No. 8917 of 1995

MR MUKESH R SHAH for Petitioner No. 1

MR DEVANG NANAVATI for Respondent No. 1

NOTICE SERVED for Respondent No. 1,2-3

CORAM : MR.JUSTICE H.K.RATHOD

Date of decision: 24/04/2002

ORAL JUDGEMENT

Heard Mr. M.R.Shah, learned advocate appearing on behalf of the petitioner and Mr.S.M.Majgavkar, learned advocate for respondents.

In the present petition, Rule has been issued by this Court on 13th December, 1995. Affidavit in reply has also been filed by the other side. The brief facts giving rise to this petition are as under :-

The petitioner had joined the respondent Bank and applied for earned leave from 1-3-1993 to 6-3-1993. On 25-1-1994 certificate issued by the Trivedi Mewada Brahman Samaj to the effect that the petitioner was present in the Shivapura Parayan is produced. Thereafter, the petitioner applied for leave from 26th April, 1993 to 1st May, 1993 as he was sick. The petitioner has also produced medical certificate to this effect that he was sick during that period. Thereafter, the petitioner received show cause notice issued by the respondent informing that the departmental inquiry is initiated against the petitioner. The petitioner has also produced all the documents including the certificate issued by the Doctor and certificate issued by the Samaj. Thereafter, another show cause notice was issued to the petitioner on 21st December, 1994 and on 11th February, 1995 office order was issued by the respondent Bank imposing punishment of stoppage of one increment. The petitioner has raised objection against this punishment. Reply which has been filed by the petitioner on 21st April, 1995 was also rejected by the respondent bank.

Thus, in the present petition, the petitioner has challenged the impugned order at Annexure-F dated 11th February, 1995. The allegation made against the petitioner is not to abide by the instructions given by the superior officer and for that, chargesheet dated 10th April, 1993 was served and thereafter, departmental inquiry was conducted and considering the report of the inquiry officer, show cause notice was issued for imposing punishment of stoppage of one increment with cumulative effect and after considering his reply submitted to the respondent authority against punishment of stoppage of one increment with cumulative effect.

I have considered submissions of the learned advocates for the parties and also considering the reply submitted by the respondent, according to my opinion, punishment looking to the misconduct in question cannot be considered to be harsh, unjust and disproportionate. This Court cannot reappreciate the evidence which was led in the departmental inquiry and therefore, considering this fact, according to my opinion, the order of punishment issued by the respondent bank is just, proper and valid and no interference of this Court is called for. Therefore, there is no substance in this petition

which requires rejection and the same is rejected accordingly. Rule discharged. No order as to costs.

Date : 24-4-2002 [H.K.RATHOD, J.]

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